

Notice of Allowability

Application No.

10/646,377

Examiner

Freda A. Nelson

Applicant(s)

HEHL ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to After-final amendment submitted May 23, 2007.
2. ☒ The allowed claim(s) is/are 1,2,7-17 and 19.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application
- ☒ Interview Summary (PTO-413), Paper No./Mail Date 5/26/07.
- ☒ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other _____

Response to Amendment

The amendment received on May 23, 2007 is acknowledged and entered. Claims 1, 7-9, 11-12, and 16-19 have been amended. Claims 3-6 have been canceled. No claims have been added. Claims 1-2, 7-17 and 19 are currently pending due to examiner's amendment canceling claim 18.

The drawings filed on August 23, 2003 are accepted by the examiner.

The rejection under 35 USC 112 has been withdrawn due to applicant's amendment.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview on May 26, 2007 with Michael Buchenhorner (Reg. No. 33,162).

IN THE CLAIMS

Claim 18 (Canceled)

Allowable Subject Matter

Claims 1-2, 7-17, and 19 are allowed.

The following is an examiner's statement of reasons for allowance:

As per independent claims 1 and 19, the prior art of record, specifically Jensen (US PG Pub. 2002/0107697), while disclosing a method and system to enable, to organize, to facilitate, and to transact communications for a fee or cost utilizing a network such as the internet, does not disclose or fairly teach:

determining by said market engine the cost of said e-mail based upon intrinsic and extrinsic criteria, wherein the intrinsic and extrinsic criteria are defined by taking into consideration four parameters: positions of said first user and second users in a hierarchy of the email group; size of said email; subject of said email; subject of said email and device type for mail delivery; and wherein said extrinsic criteria is used for adjusting said intrinsic criteria for each parameter;

running said market engine as a central market engine including a user credit database which contains the credit accounts of all users and which is accessed by said central market engine when said market engine has to determine the cost of said e-mail; and

maintaining the credit account of each user in a credit database at a client device associated with said user, wherein said step of maintaining said credit account included in the credit database of said central market engine and the credit database at the client device associated with each user further includes the step of providing for said user a number of credit points at some specific periods.

The NPL prior art of record, specifically, "GotMarketing Sold on MetraTech; MetraTech Powers Dynamic pricing and Billing For GotMarketing's E-mail Marketing Tools" and "INSTIL: Instil propels dynamic pricing, exchange and procurement technology to a new level", does not disclose or fairly teach:
forwarding by a first user, who is a member of an email group, said e-mail to a market engine for allocating a cost to said e-mail;

determining by said market engine the cost of said e-mail based upon intrinsic and extrinsic criteria, wherein the intrinsic and extrinsic criteria are defined by taking into consideration four parameters: positions of said first user and second users in a hierarchy of the email group; size of said email; subject of said email; subject of said email and device type for mail delivery; and wherein said extrinsic criteria is used for adjusting said intrinsic criteria for each parameter;

submitting the cost of said e-mail to said first user for agreement by said first user; forwarding by said market engine said e-mail to the second user in response to said agreement by the first user, wherein said second user is a member of the email group; and updating a credit account associated with said first user;

running said market engine as a central market engine including a user credit database which contains the credit accounts of all users and which is accessed by said central market engine when said market engine has to determine the cost of said e-mail; and

maintaining the credit account of each user in a credit database at a client device associated with said user, wherein said step of maintaining said credit account included

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in the credit database of said central market engine and the credit database at the client device associated with each user further includes the step of providing for said user a number of credit points at some specific periods.

The foreign prior art of record, specifically, Kunigami (JP 05-268216) , while disclosing a charging system for electronic mail:

forwarding by a first user, who is a member of an email group, said e-mail to a market engine for allocating a cost to said e-mail;

determining by said market engine the cost of said e-mail based upon intrinsic and extrinsic criteria, wherein the intrinsic and extrinsic criteria are defined by taking into consideration four parameters: positions of said first user and second users in a hierarchy of the email group; size of said email; subject of said email; subject of said email and device type for mail delivery; and wherein said extrinsic criteria is used for adjusting said intrinsic criteria for each parameter;

submitting the cost of said e-mail to said first user for agreement by said first user;

forwarding by said market engine said e-mail to the second user in response to said agreement by the first user, wherein said second user is a member of the email group; and updating a credit account associated with said first user;

running said market engine as a central market engine including a user credit database which contains the credit accounts of all users and which is accessed by said

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central market engine when said market engine has to determine the cost of said e-mail; and

maintaining the credit account of each user in a credit database at a client device associated with said user, wherein said step of maintaining said credit account included in the credit database of said central market engine and the credit database at the client device associated with each user further includes the step of providing for said user a number of credit points at some specific periods.

The remaining dependent claims are considered allowable, as they are dependent and based off of an allowable independent claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday -Wednesday and Friday, 10:00 AM –6:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FAN 05/26/07

A handwritten signature in cursive script, appearing to read "Freda Nelson".

THOMAS A. DIXON
PRIMARY EXAMINER